IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

WA.No. 688 of 2003()

AGAINST THE JUDGEMENT IN OP.9024/2003 Dated 28/03/2003

APPELLANT/PETITIONER IN OP:

P.K.GOPI , S/O.C.K.KUNJAN,
SOLE PROPRIETOR, CLASSIC FUELLING AND SERVICES,
I.B.P.DEALERS, KARUKACHAL, KOTTAYAM.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS/RESPONDENTS IN OP

1. UNION OF INDIA, REPRESENTED BY THE SECRETARY, PETROLEUM AND NATURAL GAS DEPARTMENT, NEW DELHI.

2. THE INDIAN OIL COMPANY, BOMBAY REPRESENTED BY ITS CHAIRMAN.

3. THE CHIEF DIVISIONAL MANAGER, INDIAN OIL CORPORATION, THIRUVANANTHAPURAM.

4. THE DEPUTY GENERAL MANAGER, INDIAN OIL COMPANY, PANAMPALLY NAGAR, COCHIN.

5. LALITHA K.NAIR W/O. KAMALASANAN NAIR, INDRA NEELAM, KALECKAL,NEDUMKUNNAM, KARUKACHAL P.O.

BY ADV. SRI.N.ANILKUMAR ,ACGSC
SRI.ANTONY DOMINIC
SRI.P.S.SREEDHARAN PILLAI, SCGSC
SRI.JOY GEORGE
SMT.PRAICY JOSEPH

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 26/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

W.A. NO. 688 OF 2003

Dated this the 26th June, 2007

JUDGMENT

H.L.DATTU, C.J.

Questioning the correctness or otherwise of the orders passed by the learned single Judge in O.P.No.9024 of 2003, dated 28th March, 2003, the petitioner has filed the present appeal.

2. Originally, the grievance of the petitioner was with regard to a notification issued by the respondents inviting application for allotment of a retail outlet for distribution of the petroleum products. The said notification was questioned by the petitioner on the ground of distance limits. This Court by its judgment dated 12th December, 2001 in O.P.No.7545 of 1999, was pleased to reject the stand of the appellant. However, liberty was granted to the appellant to make appropriate representation before the respondents- authorities for redressel of his grievance.

3. After disposal of the Original Petition, petitioner had gone before the respondents by making a representation. That representation was considered by the respondents by order dated 7th February, 2003. In paragraph 4 of that order, the respondents have

stated as under:

> "4. As per the direction issued by the High Court, the representation of Shri P.K.Gopi has been examined. The order of the High Court of Kerala clearly indicates that the proposed new retail outlet is within the laid down distance volume norms, so there is no violation of the guidelines. The setting up of new retail outlet as per the marketing guidelines does not, in any way, infringe upon the commercial rights or interests of the representationist, nor does it impose restrictions on his business. An additional retail outlet is expected to further foster competitive spirit among the dealers, thus encouraging greater efficiency in customer service and satisfaction."

4. Not being satisfied with whatever had been stated by the respondents in the order dated 7th February 2003, the appellant was once again before this Court in O.P.No.9024 of 2003. Learned single Judge by its judgment dated 28th March, 2003, in our view, has rightly rejected the Original Petition. Aggrieved by the said order, petitioner is before us in this appeal.

5. We have seen the orders passed by this Court in O.P.No.7545 of 1999, orders passed by the respondents dated 7th February 2003 and also the impugned judgment in O.P.No.9024 of 2003, dated 28th March, 2003. Having seen all the three orders, we are of the opinion that none of the learned Judges have committed any error whatsoever to call for our

interference. In fact, the learned Judges while entertaining the Original Petitions have granted more than what was the petitioner really deserved in the matter. Therefore, we cannot find any error in the orders and directions issued in the Original Petitions.

6. Therefore, the Writ Appeal requires to be rejected and it is rejected.

7. In view of the order passed in the Writ Appeal, the reliefs sought for in C.M.P.Nos.2453, 2454, 2455 and 2456 of 2003 need not be considered by this Court. Accordingly, the said C.M.Ps are also rejected.

Ordered accordingly.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

ahz/

H.L.DATTU, C.J. &
K.T.SANKARAN, J.

W.A.NO. 688 OF 2003

JUDGMENT

26th June, 2007